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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 3 March 2005 from the Permanent Mission of Benin to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Benin to the United Nations in New York presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to transmit herewith the first national report of the Republic of Benin in accordance with paragraph 4 of the said resolution (see annex).

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Annex to the note verbale dated 3 March 2005 from the Permanent Mission of Benin to the United Nations addressed to the Chairman of the Committee

First National Report on the implementation of Security Council resolution 1540 (2004)

Benin considers the issue of disarmament to be fundamental to establishing peace and promoting development. It therefore makes a considerable effort to implement the relevant international conventions while at the same time enacting legislation on disarmament.

Paragraph 1: Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery:

Benin believes that the question of prevention of access by non-State actors to weapons of mass destruction (WMD) should be linked to that of disarmament, and that States in possession of weapons of mass destruction should be called on to eliminate them, where necessary, or further reduce available stocks by ending programmes on the modernization of such weapons. The acquisition of weapons of mass destruction by non-State actors poses a serious threat to international peace and security. The problem of non-State actors accessing weapons of mass destruction stems from the unacceptable accumulation, for covert purposes, of such weapons by States. Benin reiterates that it does not, and will not, provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery at the national, subregional, regional and international levels.

Paragraph 2: Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them:

Since the 11 September 2001 attacks on the United States of America and the attack on the United Nations office in Iraq, Benin has been extremely concerned about terrorism, a criminal act which cannot be justified for any reason. Terrorism is not the prerogative of a particular religion or nationality, let alone civilization. It has also become clear that carrying out terrorist attacks, albeit for reasons that their authors believe to be justified, does little to further the causes in whose name such attacks are carried out.

For this reason, Benin is in favour of strict political, economic, legal and diplomatic measures to prevent and eradicate this scourge. Pursuant to Security Council resolution 1373 (2001), in 2002 Benin submitted a report to the Counter-Terrorism Committee detailing the measures it had taken to combat terrorism. This report highlights the serious efforts made at the national level, as part of the Penal Code reform, to suppress international terrorism, in cooperation with other members of the international community and on the basis of relevant legal instruments.

To this end, Benin has ratified most of the international conventions on terrorism. Since no country is immune to terrorism, Benin attaches great importance to the measures needed to combat terrorism.

Benin has adopted a number of key measures with regard to weapons. The term "weapon" is used here in its generally accepted meaning:

1. The sale, production, possession, transport and storage of weapons inside Benin is regulated by **Decree No. 61-31/PR/MU/AM of 7 February 1961** on the weapons and ammunition regime in the Republic of Benin.

This decree provides that each year the Minister of the Interior must issue an order establishing the number of sophisticated weapons that may be imported into the country.

A new bill on the weapons and ammunition regime was examined by the national commission on legislation and codification in September 2004.

2. The legal and other measures governing acts of terrorism which are being incorporated into the new Penal Code currently being drafted will also be applicable to the prevention and punishment of acts relating to the proliferation of weapons of mass destruction.

Articles 90 and 91 define and punish terrorist acts as follows:

Article 90 — The following offences shall constitute acts of terrorism if they are connected with an individual or collective enterprise aimed at seriously disrupting law and order through intimidation and terror:

(1) wilful attacks on life, wilful attacks on the physical integrity of the person, abduction and kidnapping, as well as the hijacking of aircraft, ships or any other means of transport;

(2) theft, extortion, destruction, defacement or deterioration, as well as computer-related offences;

(3) the manufacture or possession of lethal or explosive machines or devices;

(4) the production, sale, import or export of explosive substances;

(5) the acquisition, possession, transport or illegal carrying of explosive substances or devices manufactured with the assistance of such substances;

(6) the possession, carrying or transport of war weapons and ammunition;

(7) the development, manufacture, possession, stockpiling, acquisition and transfer of biological or toxin-based weapons.

Article 91 — The introduction into the atmosphere, the ground, the subsoil or waters, including those of the territorial sea, of a substance likely to endanger the health of humans or animals or the natural environment shall also constitute an act of terrorism if it is connected with an individual or collective enterprise aimed at seriously disrupting law and order through intimidation and terror.

The competence of the courts in the case of acts committed outside Benin by a Beninese citizen or a person habitually resident in Benin and acts committed by a foreign national currently in Benin is outlined in title IX, articles 553, 554 et seq. of the Code of Criminal Procedure.

Title IX: Offences committed abroad

Article 553 — Any Beninese citizen who, while outside the territory of the Republic, is found guilty of an act which constitutes an offence under Beninese law may be prosecuted and sentenced by the Beninese courts.

Any Beninese citizen who, while outside the territory of the Republic, is found guilty of an act which constitutes an offence under Beninese law may be prosecuted and sentenced by the Beninese courts, if the act is punishable under the law of the country in which it was committed.

The provisions of the preceding paragraphs shall apply to persons who do not acquire Beninese citizenship until after the date of the commission of the act ascribed to them.

Article 554 — Any person who, while inside the territory of the Republic, has become an accessory to an offence committed abroad may be prosecuted and sentenced by the Beninese courts if the act is punishable under both the law of the foreign country and Beninese law, provided that the act which constitutes an offence has been ascertained by a final decision of the foreign court.

The draft Penal Code provides for the suppression of all forms of terrorism in accordance with the United Nations Conventions acceded to and ratified by Benin:

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft;
2. Convention for the Suppression of Unlawful Seizure of Aircraft;
3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;
4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;
5. International Convention against the Taking of Hostages;
6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation;
7. Convention on the Marking of Plastic Explosives for the Purpose of Detection;
8. International Convention for the Suppression of Terrorist Bombings;
9. International Convention for the Suppression of the Financing of Terrorism.

The following legal instruments are in the process of being ratified:

1. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
2. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf;
3. Convention on the Physical Protection of Nuclear Material.

Having noted the link between terrorism and transnational organized crime, as highlighted in resolution 1373 (2001), Benin has ratified the following conventions:

- United Nations Convention against Transnational Organized Crime;
- Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- Additional Protocol against the Smuggling of Migrants by Land, Sea and Air;
- Additional Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition.

Considerable efforts are being made to incorporate provisions relating to suppression into domestic legislation.

The objective is to establish rules in the above areas in the draft Penal Code submitted to Parliament.

Paragraph 7: Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories:

As Benin has no specific legal or statutory framework to combat the proliferation of weapons of mass destruction, it will request assistance from countries having such expertise.

However, where action to combat terrorism is concerned, the Benin authorities have asked for technical assistance to establish a system for surveillance of the territory, including border control.

Although some progress has been made as a result of assistance from the International Civil Aviation Organization in the area of airport safety, Benin is in need of technical assistance in the following areas:

Establishing standards for collection and dissemination of information and warnings about passengers.

Establishing minimum standards concerning the issuance of identification documents and travel documents; setting minimum standards and recommendations concerning the use of biometry in the establishment of procedures and the production of documents.

Establishment of minimum standards in relation to equipment used to verify the authenticity of documents at places of entry in or exit from a State.

Paragraph 8: Calls upon all States:

(a) ***To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;***

(b) ***To adopt national rules and regulations, where it has not yet been done, to ensure compliance*** **with their commitments under the key multilateral non-proliferation treaties;**

International Atomic Energy Agency (IAEA)

Benin became a member of the International Atomic Energy Agency (IAEA) on 26 May 1999, and has established fruitful cooperation with the Agency in the areas of medicine, agriculture, industry and the environment.

The Agency's activities with Benin are coordinated by a National Liaison Officer for IAEA.

A National Coordinator is responsible for radiation protection issues.

Benin worked towards the decision of the Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in May 1995 concerning the indefinite extension of the Treaty, signed in 1968.

In this context, steps have been taken to sign the Comprehensive Safeguards Agreement pursuant to the Non-Proliferation Treaty.

Comprehensive Nuclear-Test-Ban Treaty (CNTBT)

Benin signed the Comprehensive Nuclear-Test-Ban Treaty on 27 September 1996 and ratified it on 16 February 1999 because it was convinced that the Treaty provided a legal framework establishing favourable conditions for the elimination of nuclear-weapon tests worldwide. The same is true of its decision to sign and ratify the Pelindaba Treaty on the establishment of a nuclear-weapon-free zone in Africa, signed in Cairo on 11 April 1996.

Chemical Weapons Convention

Benin has been a party to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction since 13 June 1998. It ratified the Convention on 31 July 1999.

The National Authority on chemical weapons participates in all the programmes of the Organization for the Prohibition of Chemical Weapons, established to supervise the implementation of the Convention at the national level. However, it needs assistance in order to be able to function effectively.

Benin is also a party to several other conventions on disarmament and international security, including:

Treaty on Peaceful Uses of Outer Space;

Sea bed Treaty;

Convention on Environmental Modification;

Biological Weapons Convention;

Convention on Certain Conventional Weapons and its Protocols I and II.

(c) ***To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes:***

Benin takes part in the international community's efforts to prevent and combat terrorism at several levels, namely the following:

1. International level

With the United Nations

Benin took an active part in the elaboration of the Convention against Transnational Organized Crime and its additional protocols, which it signed on 13 December 2000 in Palermo and ratified on 1 March 2004.

Work is being completed on incorporating these instruments into domestic legislation. With technical support from the United Nations Office on Drugs and Crime, Benin took part in meetings on the implementation of these instruments.

With the International Atomic Energy Agency (IAEA)

Benin participates regularly in the seminars organized by IAEA on strengthening the safeguards system, nuclear safety, non-proliferation of nuclear weapons, physical protection of nuclear material and radioactive waste management.

Benin has requested assistance in implementing the legal instruments on protection against nuclear terrorism.

An Agency mission travelled to Benin from 12 to 14 March 2004 to raise the governmental and parliamentary authorities' awareness of the necessity and advantages of acceding to the international legal instruments in the nuclear field.

With the Organization for the Prohibition of Chemical Weapons (OPCW)

Benin is a party to the Chemical Weapons Convention and considers that chemical weapons are also weapons of mass destruction; it takes part in the meetings organized by the technical secretariat of the Organization for the Prohibition of Chemical Weapons on various aspects of the development, production, stockpiling and use of chemical weapons and on their destruction.

2. At the African regional level

Benin ratified the Organization of African Unity Convention on the Prevention and Combating of Terrorism on 1 March 2004. With support from the International Organization of la Francophonie (OIF), it took part in the Regional Ministerial Conference of French-speaking Countries of Africa for the promotion of ratification of the United Nations Convention against Transnational Organized Crime and its protocols, held at Cairo from 2-4 September 2003, which led to the Cairo Declaration adopted on 4 September 2003.

3. At the subregional level

Benin participates actively in the work of the Economic Community of West African States and West African Economic and Monetary Union.

As a member of the West African Economic and Monetary Union, Benin is required to implement WAEMU Regulation 07/2002/CM/UEMOA of 19 September 2002 concerning action to combat money-laundering in WAEMU member States.

Benin is also required to incorporate the provisions on money-laundering contained in the United Nations Convention against Transnational Organized Crime, which it ratified on 20 August 2004.

During the legislative process, Benin will also take into account the work of the Intergovernmental Action Group against Money-Laundering (GIABA) aimed at harmonizing legislation on money-laundering.

GIABA was established by decision A/DEC.9/12/99 of the heads of State and of Government of the Community of West African States (ECOWAS) at its 22nd meeting, held in Lomé, Togo, in December 1999. Benin is a candidate to host GIABA headquarters.

Pursuant to the International Convention for the Suppression of the Financing of Terrorism, Benin has incorporated penalties for terrorism in all its forms into its domestic legislation.

Benin's draft Penal Code provides that the procedure relating to money-laundering shall also be used for freezing, seizing or confiscating property intended for a terrorist group or deriving from terrorist acts.

Cotonou, 24 January 2005